

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, FEBRUARY 6, 2008
DE CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON MARCH 5, 2008
MEETING MINUTES**

Present: Rick Doughty, William Montejo, Paul Knowlton.

Staff: Dawn Kinney and Alan Leo,

AAG: Laura Yustak Smith and Melissa O'Dea

1. Call To Order: The meeting was called to order at 9:45 a.m.

A. Additions to the Agenda – At request of staff, application for Eric Pfeffer

Melissa O'Dea from the AAG's office was introduced to the committee members; she will be assisting Laura Yustak Smith.

Motion: To nominate Rick Doughty as the committee Chair with Board approval (Montejo; Knowlton – motion carries).

2. Complaint/Investigation Cases 04-36, 07-19, 07-20, 07-42, 07-48 and 07-49.

The committee entered executive session for the purpose of reviewing investigation and discussing cases 04-36, 07-19, 07-20, 07-42, 07-48 and 07-49.

Motion: To enter executive session pursuant to 32 M.R.S.A. §90(A), §92(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and the purpose of discussing cases 04-36, 07-19, 07-20, 07-42, 07-48 and 07-49. (Doughty; Knowlton – motion carries).

The committee entered executive session at 10:00 a.m. and exited at 11:00 a.m.

During executive session, the committee reviewed the status of the investigations and discussed options for disposition of cases 04-36, 07-19, 07-20, 07-42, 07-48 and 07-49.

Case #04-36 Committee was advised that Licensee was sent a letter that this investigation will be opened if Licensee ever applies for a new license.

Case # 07-19 Staff received guidance from AAG to send a letter to Licensee requesting that Licensee submit several names of counselors to receive Board approval as stated in the Consent Agreement.

Motion: In case 07-20, The Committee finds that Licensee violated Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(5) Acting in ways that are dangerous or injurious to the licensee or other persons and Chapter 11§(1)(14) Violation of any standard established in the profession. The Committee finds that the violations are based on the conduct underlying Licensee's June 02, 2005 convictions for Assault (Class D) in violation of 17-A M.R.S.A. §207(1)(A) 4011(1)(A) and Terrorizing (Class D) in violation of 17-A M.R.S.A. §210(1)(A). As EMS providers are licensed to provide aid to the sick and injured, it is contrary to the standards established in the profession to cause injury to another,

particularly where the injury-causing conduct provides a basis for criminal convictions. The Committee found aggravating circumstances in that the Licensee caused serious injury. The Committee found mitigating circumstances in that the Licensee took responsibility and was forthright with Committee; voluntarily attended counseling and had several letters of recommendation. In consideration of the mitigating factors the Committee proposed to resolve this investigation by means of a Consent Agreement that would include the following discipline: reprimand and conditions on licensure: Licensee will report any criminal charges filed against Licensee in any state or Federal Court within 10 days of charges being docketed; that if charges are filed against Licensee in any State or Federal court, Licensee will immediately surrender any license issued by Maine EMS pending resolution of any EMS investigation into the conduct unless Licensee can show good cause as to why the license should continue pending the investigation. This Consent Agreement will in effect be for ten years from the date of convictions until June 02, 2015. Investigation 07-20 will be resolved and closed with the execution of the Consent Agreement by all parties. (Montejo; Knowlton – motion carries).

Motion: In case 07-42, The Committee finds that Licensee violated Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(34), Aiding the practice of emergency medical treatment by a person not duly licensed under 32 M.R.S.A., Chapter 2-B. The Committee moves that staff send a Letter of Guidance for allowing an unlicensed provider to respond and provide patient care on its behalf and that the Letter of Guidance include direction to the service to update its policy to include the following elements: 1) Identification of persons by position (as opposed to name) responsible for maintaining and tracking the spreadsheet listing expiration dates for licensees; 2) Specification of frequency of tracking/maintenance duties; 3) Notification to providers of expiration dates to ensure that providers will not practice without current licensure. The Committee found mitigating circumstances in that: Licensee took full responsibility for what occurred; Licensee developed a policy to prevent recurrence; and there was no patient harm. In consideration of the mitigating factors, the violation did not warrant disciplinary action. The Letter of Guidance will be kept on file for five years. The Committee considers this investigation 07-42 resolved and closed upon issuance of the Letter of Guidance. (Montejo; Knowlton - motion carries).

Case #07-48 Staff advised Committee that former Licensee has been convicted of a federal offense, is currently incarcerated, and is not due to be released until 2009. Staff has noticed former licensee of complaint and closure (given expired license and incarceration), and that investigation will be opened if individual seeks relicensure.

Motion: In case # 07-49, The Committee directed staff to continue investigation and schedule an informal conference for April 2, 2008. (Montejo; Knowlton – motion carries)

3. Informal Conference – NONE

4. Applications

A. Michael Conway

The Committee reviewed documents provided by the applicant and Maine EMS. Applicant disclosed convictions on application.

Motion: The Committee directed staff to schedule and informal review at the April 2, 2008 meeting.

B. Eric Pfeffer

Staff requested that this matter be added to the agenda for purposes of obtaining guidance in this and similar situations where applicant fails to disclose a relatively minor conviction. The Committee reviewed documents provided by the applicant and Maine EMS.

Motion: The Committee directed staff to request a letter from applicant as to why he failed to disclose his conviction for Theft by Unauthorized Taking or Transfer (Class E) in violation of 17-A M.R.S.A. §353(1) on his application dated January 15, 2008. Given the age and nature of the conviction, staff is authorized to issue the license with a Letter of Guidance to ensure that applicant list the conviction on any application that applicant submits to this office in the future, including but not limited to applications for renewal and upgrade.

Discussion followed regarding staff seeking input/authorization from full Board regarding how staff should handle applications where applicant fails to disclose minor conviction(s).

5. Next Meeting

The next meeting is scheduled for Wednesday April 2, 2008 at 9:30 a.m.

6. Adjourn

Adjourn – The meeting was adjourned at 12:00 p.m.

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent